

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Public Citizen, Inc.

v.

Public Service Electric and Gas Company

Docket No: EL26-

Complaint of Public Citizen, Inc.

A year ago, Public Citizen initiated proceedings to prohibit Public Service Electric and Gas Company (PSEG) from recovering from ratepayers unjust and unreasonable expenses related to its Roseland-to-Pleasant Valley transmission project that was the subject of a FERC enforcement action.

Because FERC has failed to respond to our request to protect household consumers from PSEG's unjust and unreasonable transmission rate, Public Citizen today files this complaint under Section 206 of the Federal Power Act.¹ We request FERC establish a refund effective date and hold a hearing to determine the scope of unjust and unreasonable rates attributable to PSEG's Roseland-to-Pleasant Valley transmission project. FERC must set the matter for hearing to ensure that families do not shoulder PSEG's unlawfully inflated charges.

On December 5, 2024, FERC issued an *Order Approving Stipulation and Consent Agreement re Public Service Electric and Gas Company*² determining that PSEG misled PJM, the regional grid operator, about the number of transmission towers on the Roseland-to-Pleasant Valley transmission line (identified by baseline project code b2986) that required "extensive reconstruction". The December 5 enforcement action details, in our opinion, fraud committed by PSEG.³

As the enforcement order states at ¶ 10, PSEG asked PJM to approve its \$546 million Roseland-to-Pleasant Valley transmission line replacement project. PSEG

¹ 16 USC § 824e.

² 189 FERC ¶ 61,175, Docket No. IN21-5,
https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20241205-3039

³ The entire enforcement order should be read, but ¶¶ 25-26 detail how PSEG withheld incriminating pages from a presentation that would have exposed that only 8 towers required "[e]xtensive foundation rehabilitation", and not the 67 that PSEG claimed to PJM.

submitted PowerPoint presentations claiming 67 transmission towers in this corridor featured “foundations requiring extensive reconstruction”,⁴ when in reality only 8 towers met that criteria.⁵ Rather than conduct any independent evaluation, PJM relied entirely on PSEG representations and its PowerPoints in approving the \$546 million project;⁶ failed to perform any independent due diligence; and did not maintain basic recordkeeping of meetings where hundreds of millions of dollars in ratepayer-funded projects were discussed.⁷

PSEG’s action to intentionally mislead the number of transmission towers that required extensive reconstruction allowed it to inflate the costs of the project beyond what was necessary. These inflated costs have been and will continue to be passed on to innocent ratepayers, in violation of the Federal Power Act’s requirement that all rates be just and reasonable.

While the enforcement order documents clear wrongdoing committed by PSEG—imposing a \$6.6 million civil penalty payable to the U.S. Treasury⁸—it failed to protect consumers from unjust and unreasonable rates resulting from PSEG’s scam. Households received no refunds from the \$6.6 million penalty, and the exaggerated transmission line costs have been passed on to consumers, and will continue to be for years, until FERC takes action.

On January 10, 2025, Public Citizen protested proposed amendments to PJM’s Open Access Transmission Tariff that included proposed cost allocations for PSEG’s Roseland-to-Pleasant Valley transmission project.⁹ Our protest argued that cost allocations for PSEG’s transmission project were unjust and unreasonable, as they include imprudently incurred expenditures.

The Commission determined that our January 2025 challenge was “beyond the scope” of the PJM proceeding, and directed that “challenges to the recovery of the costs that PSEG incurred for the Roseland-to-Pleasant Valley transmission project may be

⁴ Enforcement order, at ¶ 15.

⁵ Enforcement order, at ¶ 17.

⁶ Enforcement order, at ¶ 16.

⁷ Enforcement order, at ¶ 13.

⁸ Enforcement order, at ¶ 2.

⁹ Docket No. ER25-775, https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250110-5172

raised through PSEG’s formula rate annual update process”.¹⁰ Following the Commission’s clear guidance, Public Citizen filed a protest on June 27, 2025 challenging PSEG’s formula rate annual update process.¹¹ It has been over six months since we filed as instructed, and FERC has neither acknowledged nor acted upon our protest. Hence we file this complaint under Section 206 of the FPA.

Given the stipulated facts in the enforcement order, FERC cannot apply a presumption of prudence. To the extent FERC presumes the expenditures related to the Roseland-to-Pleasant Valley transmission project b2986 were prudently incurred, the stipulated facts create “serious doubt” that the expenditures were prudently incurred¹² (“The regulated entity has the burden of proof to establish prudence. However, in order to ensure that rate cases are manageable, a presumption of prudence applies until the challenging party ‘creates a serious doubt as to the prudence of an expenditure.’” (quoting *Iroquois Gas Transmission Sys.*, 87 FERC at 62,170)). FERC must find the proposed rates to be unjust and unreasonable, and set the matter for hearing.

FERC’s December 5, 2024 enforcement order reveals new information that clearly raises “serious doubt” about the prudence of these expenditures and is relevant to whether these rates are just and reasonable. There is therefore good cause for waiving any procedural requirements in the Tariff.

Remarkably, PSEG makes a claim that the December 2024 enforcement action is a type of “get out of jail, free” card that insulates the rate recovery for the transmission project from scrutiny. PSEG and its lawyers submitted an unsupported and outrageous immunity claim in a reply to our original January 2025 protest: “It would significantly undermine the Commission’s ability to settle enforcement actions if the Commission allowed settlement agreements to be used against the target of those settlement agreements in other Commission proceedings, particularly those in which the target does not admit to a violation. The Commission should adhere to its policy against using

¹⁰ February 18, 2025 *Order on Tariff Revisions*, 190 FERC ¶ 61,094, Docket No. ER25-775, at ¶ 43, https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250218-3060

¹¹ Docket No ER09-1257, https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250627-5077

¹² *BP Pipelines*, 153 FERC ¶ 61,233 at ¶ 13 https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20151120-3065

settlements as precedent and reject Public Citizen’s abuse of the settlement process.”¹³ The Federal Power Act’s prohibition of any “unjust and unreasonable” rate is not limited or eradicated because of any separate office of enforcement action.

PSEG’s Roseland-to-Pleasant Valley transmission project includes imprudently incurred charges that were the subject of a Commission enforcement action. PSEG’s transmission formula rate is therefore unjust and unreasonable, and the Commission must set the matter for hearing to ensure that families do not shoulder PSEG’s unlawfully inflated charges.

About Public Citizen

Established in 1971, Public Citizen is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers. We have more than one million members and supporters across the United States, including in PSEG’s service territory. Public Citizen is active before FERC promoting just and reasonable rates, and supporting efforts for utilities to be accountable to the public interest. We have pioneered obtaining refunds to consumers via a 206 complaint, recently securing \$38 million for consumers harmed by Dynegy’s market manipulation—a case where FERC had dismissed our complaint in July 2019 by a 3-1 vote, just to see us prevail on our petition to the DC Circuit and negotiate the refund settlement after the court remanded our complaint back to FERC.¹⁴ Financial details about our organization are on our web site.¹⁵

Following is compliance with 18 CFR § 385.206(b):

Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant

¹³ At page 8, January 27, 2025 *Motion for Leave to Answer and Answer of Public Service Electric and Gas Company to the protest filed by Public Citizen*, Docket No. ER25-775, https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250127-5210

¹⁴ See Docket No. EL15-70.

¹⁵ www.citizen.org/about/annual-report/

Public Citizen, Inc. is a nonprofit, nonpartisan consumer research and advocacy organization with over 1,000,000 members and supporters across the country, including those in New Jersey and PSEG's service territory that have been forced to pay fraudulent charges related to the Roseland-to-Pleasant Valley transmission project, and we seek action to protect those consumers from paying unjust and unreasonable rates.

Make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction

It is important to note that PSEG recovers from its ratepayers all costs associated with its filings at FERC—including any and all responses to this 206 complaint. So PSEG's ratepayers, rather than the company's shareholders, pay its regulatory costs. Public Citizen is afforded none of that luxury, as we are forced to defend just and reasonable rates on behalf of millions of working families out of our own pockets—which is why FERC should “provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission”.¹⁶

Failure of FERC to act to address imprudent cost recovery associated with PSEG's Roseland-to-Pleasant Valley transmission project will burden ratepayers—including working families and the elderly on fixed incomes—with paying unjust and unreasonable rates for their utility service.

State whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum

Public Citizen filed a protest on June 27, 2025 challenging PSEG's formula rate annual update process in FERC Docket No. ER09-1257.¹⁷ After six months, FERC neither acknowledged nor responded to our protest. Hence, we have filed this complaint under Section 206.

¹⁶ 16 USC § 825q-1(b)(2).

¹⁷ https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250627-5077

State whether Enforcement Hotline, ADR, etc. or other informal dispute procedures were used or why not; whether ADR could successfully resolve the complaint.

Public Citizen is asking for actions to be taken by the Commission, including statutory interpretations. Informal dispute procedures are not applicable.

State the specific relief or remedy requested, including any request for stay or extension of time, and the basis for that relief.

In order to ensure just and reasonable rates, FERC must find that certain unlawfully inflated charges detailed in the Commission's enforcement action against PSEG for its Roseland-to-Pleasant Valley transmission project (identified by baseline project code b2986) are imprudently incurred. FERC must establish an effective refund date and set the matter for hearing.

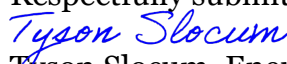
Pursuant to 18 CFR § 385.206(c), we have served the following individuals, simultaneous with our filing of the complaint with FERC:

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Respectfully submitted,

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¹⁸ www.ferc.gov/electric-matters-p